

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**WALTER C. SMITH, III,**

**Defendant.**

**No. 06-CR-30070-DRH-1**

**ORDER**

**HERNDON, Chief Judge:**

This comes before the Court for purposes of case management. Defendant Walter C. Smith, III, inquires as to whether he is eligible for a sentence reduction under the “new crack laws.” Defendant asks for appointment of counsel in this regard.

The Court first notes that it will not appoint counsel to represent defendant in his intention to file a “crack motion” at this time. The Seventh Circuit has alluded that this Court does not have the authority, “to appoint counsel at public expense to prosecute a motion in this district court, or an appeal, under § 3582(c)(2).” *United States v. Foster*, 706 F.3d 887, 887-88 (7th Cir. 2013). And thus, defendant’s request for appointment of counsel is denied.

However, in light of certain changes to the U.S. Sentencing Guidelines that may take effect retroactively November 1, 2014, the Court shall leave defendant’s motion for reduction of sentence pending at this time. The Court shall review and

re-evaluate the substantive merits of defendant's request as soon as practicable after November 1, 2014.

**IT IS SO ORDERED.**

Signed this 2<sup>nd</sup> day of July, 2014.

Digitally signed by  
David R. Herndon  
Date: 2014.07.02  
14:47:58 -05'00'

The image shows a digital signature in blue ink that reads "David R. Herndon". To the right of the signature is the official seal of the United States District Court for the Southern District of New York. The seal is circular, featuring an eagle with a shield on its chest, holding an olive branch and arrows. The words "UNITED STATES DISTRICT COURT" are inscribed around the top half of the seal, and "SOUTHERN DISTRICT OF NEW YORK" is inscribed around the bottom half.

**Chief Judge  
United States District Court**